IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.SASIDHARAN NAMBIAR

THURSDAY, THE 14TH DECEMBER 2006 / 23RD AGRAHAYANA 1928

WP(C).No. 33274 of 2006(J)

OS.82/2000 of SUB COURT,PARAVUR

.....

PETITIONER:

1. ELAMMA, AGED 71, D/O. POKKATTU VARGHESE, KANNANGANAMALIL HOUSE, VALAYANCHIRANGARA P.O., VALAYANCHIRANGARA, PERUMBAVOOR, (KUNNAKKURUDI KARA, AIRAPURAM VILLAGE, KUNNATHUNADU TALUK), ERNAKULAM DISTRICT, PIN-683 556.

2. YACOB, AGED 63, S/O. VARKEY, PAPPALIL HOUSE, AIRAPURAM P.O., ERNAKULAM-683 557.

3. VARGHESE P.Y., AGED 43, S/O. YACOB, PAPPALIL HOUSE, AIRAPURAM P.O., ERNAKULAM-683 557.

4. RAJU P.Y., AGED 37, S/O. YACOB, PAPPALIL HOUSE, AIRAPURAM P.O., ERNAKULAM-683 557.

BY ADV. SRI.P.N.RAMAKRISHNAN NAIR
SRI.P.VISWANATHAN

RESPONDENTS:

1. ELDHOSE, AGED 43, S/O. ISSAC, KUNNAKKURUDIKARA, AIRAPURAM VILLAGE, KUNNATHUNADU TALUK, ERNAKULAM DISTRICT.

2. JOSEPH, AGED 40, S/O. ISSAC, KUNNAKKURUDIKARA, AIRAPURAM VILLAGE, KUNNATHUNADU TALUK, ERNAKULAM DISTRICT.

3. JOY, AGED 43, S/O. VARKEY,
KAKKATHIL HOUSE, AIRAPURAM P.O.,
KUNNAKKURUDIKARA, AIRAPURAM VILLAGE,
KUNNATHUNADU TALUK, ERNAKULAM DISTRICT.
PIN-653 541.

4. KUNJAMMA, AGED 52, W/O.ISSAC. KUNNAKKURUDIKARA, AIRAPURAM VILLAGE, KUNNATHUNADU TALUK, ERNAKULAM DISTRICT

5. ELDHO.P.Y., AGED 46, S/O.YACOB, PAPPALLI HOUSE, AIRAPURAM.P.O., ERNAKULAM 683 557.

BY //

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 14/12/2006, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

M.SASIDHARAN NAMBIAR,J.

W.P.(C) .NO.33274 OF 2006

Dated 14th December 2006

JUDGMENT

Petitioners are plaintiffs in O.S.82/2000 on the file of Sub court, North Parvur. They filed Ext.P2 application (I.A.3770/04) to pass a final decree in accordance with the preliminary decree. Commissioner was appointed to divide the properties in accordance with the preliminary decree. Meanwhile respondents filed an objection contending that entire properties are not available for partition. Writ Petition (Civil) No.30269/2005 was filed before this court challenging the order of court below that rights of parties have been crystallized as per preliminary decree and parties are not entitled to re-agitate the matter in final decree. This court under Ext.P4 judgment disposed the writ petition holding that finding of trial court that there is no merit in the objection raised by respondents is unsustainable. That finding was therefore quashed. This court directed the trial court to consider the

objection raised by respondents in the counter affidavit at the time of considering final decree application. This petition is filed under Article 227 of Constitution of India seeking a direction of Sub court, North Parvur to dispose the final decree application.

2. Learned counsel appearing for petitioners was heard. Arguments of learned counsel appearing for petitioners was that after Ext.P4 judgment, learned Sub Judge did not take any action in the final decree application and is not disposing the same.

3. Sub court, North Parvur is directed to issue sufficient directions to the Commissioner to expedite the work and submit the report and thereafter dispose final decree application after considering the objections raised by respondents in the light of Ext.P4 judgment and dispose the final decree application as expeditiously as possible.

M.SASIDHARAN NAMBIAR,
JUDGE.

uj.